

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.10420 of 2007

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Dated: October 4, 2007
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Between:

T. Laxminarayana, S/o. Yadagiri, Hindu,
Age: 33 years, Occ: employee in Railways,
R/o.12-13-1104, Chintal, Tarnaka, Secunderabad,
And others.

... Petitioners

And

Assistant Engineer (Elec.) Operation Lines-II,
APCPDCL, Chilakalaguda Sub-station, Hyderabad,
And others.

... Respondents

Order:

Though Miscellaneous Petitions have been listed for hearing, at the request of learned counsel for parties, the writ petition itself is being disposed of.

2. This writ petition has been filed seeking Mandamus to declare the action of respondents 1 and 2 in shifting High Tension poles bearing Nos.133 to 136 close to the *basthi* of petitioners from their

original place as illegal and arbitrary.

3. In the affidavit filed in support of the writ petition, it is stated that petitioners are residents of Street No.12 of Chintal Basthi of Tarnaka. It is their case that there are 33 K.V. High Tension poles existing at a distance of 300 yards from their houses for the last several years. It is stated that originally the surrounding lands were agricultural lands and in view of recent developments, the same are being used for non-agricultural purposes. The grievance of petitioners is that third respondent herein purchased about Ac.1.00 guntas of land covered by Sy.Nos.137, 138, 142 and 143 and on his request, respondents are shifting the 33 K.V. High Tension poles from their original place to a place proximate to petitioners' houses.

4. First respondent and third respondent have filed separate counter affidavits. In the counter affidavit filed by the first respondent, it is stated that on the application of the third respondent, competent authority has approved the plan for construction over an extent of 7614.39 Sq. meters in premises No.12-1-343, Lalapet, Secunderabad. Thereafter, third respondent made an application for shifting of the poles. After considering the said application and maintaining all standards and clearances as per the Indian Electricity Rules, 1956, framed under the Indian Electricity Act, 1910, permission was granted for shifting the poles on turnkey basis. It is further stated that shifting of lines is within the retainable area of the land of the third respondent and there is a nala between the area retained by third respondent and surplus land in an extent of 1490.94 Sq. meters. It is also stated that officials have given pit marks according to the sanction estimate and shifting of lines is to a place which is very far away from the *basthi* and horizontal clearance of 2 meters is also maintained.

5. Third respondent, in his counter affidavit, denied the allegations of the petitioners and stated that shifting of lines is within the land covered by Sy.Nos. 137, 138, 142 and 143 and houses of petitioners are far away from the lines and there is no danger at all having regard to the distance maintained.

6. Rules titled as Indian Electricity Rules, 1956 have been framed in exercise of powers under Section 37 of the Indian Electricity Act, 1910. As per Rule 80(2) (b) of the Rules, for high voltage lines of above 11,000 volts and up to and including 33,000 volts, horizontal clearance between the nearest conductor and any part of such building is 2.0 meters.

7. The case of petitioners is that the electric lines are being shifted very near to their houses, whereas in the counter affidavit filed by the respondents, it is stated that lines are shifted only to the surplus land of the third respondent which is adjacent to the original place. It is further stated in the counter affidavit that shifting of lines is within the retainable area of the land of the third respondent and there is a nala between the area retained by third respondent and surplus land in an extent of 1490.94 Sq. meters. It is also stated that officials have given pit marks according to the sanction estimate and shifting of lines is to a place which is very far away from the *basthi* and horizontal clearance of 2 meters is also maintained as per the Rules referred above. In that view of the matter, the allegation of petitioners that lines have been shifted close to their houses cannot be accepted.

8. Having regard to the allegations made by the parties, it is a case where factual disputes arise for consideration. It is well settled that factual disputes cannot be gone into and resolved in a petition filed

under Article 226 of the Constitution of India. In that view of the matter, no relief as sought for can be granted.

9. The writ petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY.

October 4, 2007

MRR